IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3591 OF 2002
IN
INCOME TAX APPEAL(LOD) NO.1069 OF 2002

The Commissioner of Income ..Appellant.

V/s.

Shri Bharat Kumar Modi (HUF) ..Respondent.

Mr.A.S.Rao for appellant.

Mr.A.R.Singh i/b.K.Gopal for respondent.

CORAM : V.C. DAGA AND
J.P.DEVADHAR, JJ.

DATED : 25TH OCTOBER, 2005.

P.C. :-

1. Heard Mr.A.S.Rao, the learned counsel for the revenue and Mr.A.R.Singh the learned counsel for the respondent.

2. There is a delay of 66 days in filing the appeal. The explanation for delay is thus:-

> "..This delay has occurred due to restructuring of the department. In order to streamline the work, the department is undergoing major restructuring. Assesses are being identified as per Municipal Limits. Case records accordingly being transferred from one charge to another and reassigned. It is on account of these reasons that limitation issue was lost sight off. Different officer have to acquaint themselves with new cases received by them under their charge and proceed from there. It is on account of these

factors that the delay has occurred...."

3. This is routine and stereo-type explanation furnished by the revenue in almost all the applications for condonation of delay. It is for this reason that when the matter came before this bench on 18/10/2005, the matter was adjourned and the appellant-revenue was directed to file better affidavit. The said order is not complied with till date.

4. Despite the matter having been adjourned for filing better affidavit, the supplementary affidavit setting out sufficient cause for delay has not been filed. Moreover, similar orders have already been passed in Notice of Motion No. 549 of 2003, Notice of Motion No.548 of 2003, Notice of Motion No.550 of 2003 and Notice of Motion No.3592 of 2002.

5. In the circumstances, we are left with no choice but to dismiss the notice of motion for non compliance and want of sufficient cause in filing the appeal belatedly.

6. Notice of motion stands disposed of accordingly with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)